IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTY FIRST DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 13706 of 2004

Between:

Smt. K. Jyothi, W/o. K. Bhaskar,
R/o. Bhupanapadu Village, Panyam Mandal, Kurnool District.

..... PETITIONER

AND

1 The District Collector, Kurnool, Kurnool District.
2 The Joint Collector, Kurnool, Kurnool District.
3 The Revenue Divisional Officer, Nandyal, Kurnool District.
4 Pujala Tulasi Madhavi, W/o. Janardhan,
R/o. Bhupanapadu Village, Kurnool District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a "Writ of Mandamus" or any other appropriate order or direction and declare the action of the 1st respondent staying the appointment of the petitioner herein in proceedings dt. 23-6-2004 as arbitrary, illegal and contrary to the principles of Natural Justice and pass such other order or orders as this Hon'ble Court deem fit and proper.

Counsel for the Petitioner: KUM.B.G.UMA DEVI

Counsel for Respondents 1 to 3:The Government Pleader For Civil Supplies.

Counsel for Respondent No.4: Sri K.V.Chalapathi Rao

The Court at the stage of admission made the following Order:

The writ petitioner has been appointed as authorized dealer of the Fair Price Shop of Bhupanapadu Village, Paayam Mandal, Kurnool District, after following due process of selection on 17-2-2004. The fourth respondent herein, who was the unsuccessful candidate, filed an appeal before the second respondent-Joint Collector, Kurnool, Kurnool District, challenging the order of appointment of the writ petitioner on the ground that the petitioner does not possess the minimum educational qualification. The fourth respondent has also filed W.P.No.3977 of 2004, challenging the order of appointment of the writ petitioner. The said writ petition was disposed of by this Court by order dated 05-03-2004 with a direction to the second respondent to dispose of the appeal expeditiously, within a period of three months and pending disposal of the said appeal, the writ petitioner therein i.e. the fourth respondent in this writ petition shall be continued, if he is continuing as on that date.

The specific case of the fourth respondent is that since he was continuing as temporary dealer as on that date, the third respondent herein issued proceedings dated 29-03-2004 directing the Mandal Revenue Officer to implement the orders of this Court in W.P.No.3977 of 2004 dated 05-03-2004. Thereafter, the second respondent disposed of the appeal through his orders dated 31-05-2004 holding that in view of the S.S.C. certificate produced by the writ petitioner, the allegation that

she does not possess the requisite educational qualification is not correct. Accordingly, the appeal was dismissed and the order of appointment dated 17-02-2004 was upheld. Aggrieved by the same, the fourth respondent herein preferred a revision before the first respondent-District Collector, Kurnool, Kurnool District. Pending the said revision petition, the first respondent, through his orders dated 23-06-2004, granted stay of operation of the orders of the second respondent dated 31-05-2004, which is under challenge in this writ petition.

I have heard the learned Counsel for the petitioner and the learned Counsel appearing for the fourth respondent as well as the learned Government Pleader for respondents 1 to 3.

Learned Counsel for the petitioner while producing a copy of the S.S.C. certificate of the petitioner contended that the allegation that the petitioner does not possess the minimum educational qualification is incorrect, and therefore, the second respondent has rightly dismissed the appeal upholding the appointment of the petitioner.

On the other hand, learned counsel for the fourth respondent vehemently contended that the appeal preferred by the fourth respondent before the second respondent was dismissed without any notice to the appellant. He further contended that since the second respondent failed to conduct any enquiry as to the authenticity of the certificate produced by the writ petitioner, the order dated 31-05-2004 dismissing the appeal is unsustainable and in the circumstances till the disposal of the revision petition, the writ petitioner cannot be permitted to distribute the commodities.

It is to be noted that the fourth respondent who was the temporary dealer of the shop in question has been distributing the commodities to the card-holders even prior to the appointment of the petitioner and even thereafter by virtue of the orders of this Court in W.P.No.3977 of 2004, he has been continued during the pendency of the appeal before the second respondent. The fact that second respondent dismissed the appeal without any notice to the fourth respondent is not in dispute. Admittedly, against the order of the second respondent, a revision petition is pending before the first respondent. What is assailed in this writ petition is only an interim order passed by the first respondent pending the revision petition.

In the circumstances, without expressing any opinion on merits, I deem it appropriate to dispose of the writ petition with a direction to the first respondent-District Collector to dispose of the revision petition pending on his file as expeditiously as possible,

preferably within a period of three weeks from the date of receipt of this order. It is made clear that till the disposal of the revision on the file of the first respondent, status quo obtaining as on today for the purpose of distribution of the commodities through the Fair Price Shop of Bhupanapadu village, Paayam Mandal, Kurnool District shall be maintained and the third respondent shall ensure that the card-holders are not inconvenienced in any manner.

The writ petition is accordingly disposed of. No costs.

_____

31-08-2004

Note:Issue C.C. by three days.

(B/o)

kdl

To

1 The District Collector, Kurnool, Kurnool District.
2 The Joint Collector, Kurnool, Kurnool District.
3 The Revenue Divisional Officer, Nandyal, Kurnool District.

4 Two C.Cs. to the Government Pleader for Civil Supplies, High

Court Buildings, A.P., Hyderabad.

5 Two C.D. Copies.